

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

|                            |   |              |
|----------------------------|---|--------------|
| GERALD SIMMONS,            | : | CIVIL ACTION |
| Petitioner                 | : |              |
|                            | : |              |
|                            | : | NO. 08-5911  |
| v.                         | : |              |
|                            | : |              |
|                            | : |              |
| DAVID DIGUGLIELMO, et al., | : |              |
| Respondents                | : |              |

ORDER

AND NOW, this 27th day of August, 2009, upon careful and independent consideration of the petition for a writ of habeas corpus, and after review of the Report and Recommendation of United States Magistrate Judge Timothy R. Rice, IT IS ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED
2. The petition for a writ of habeas corpus is DENIED with prejudice.
3. There is no probable cause to issue a certificate of appealability.
4. The Clerk of Court shall mark this case closed for statistical purposes.

BY THE COURT:

/S/LEGROME D. DAVIS

LEGROME D. DAVIS, J